

## **REMARKS/ARGUMENTS**

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the amendments and remarks herewith, which place the application into condition for allowance. The present amendment is being made to facilitate prosecution of the application.

### **I. STATUS OF THE CLAIMS AND FORMAL MATTERS**

Claims 1-8 are pending in this application. Claims 1-4, 7, and 8, which are independent, are hereby amended. No new matter has been introduced. It is submitted that these claims, as originally presented, were in full compliance with the requirements of 35 U.S.C. §112. Changes to these claims, as presented herein, are not made for the purpose of patentability within the meaning of 35 U.S.C. §101, §102, §103, or §112. Rather, these changes are made simply for clarification and to round out the scope of protection to which Applicant is entitled.

### **II. REJECTIONS UNDER 35 U.S.C. §103(a)**

Claims 1-8 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 5,819,092 to Ferguson, et al. (hereinafter, merely "Ferguson").

Claim 1 recites, *inter alia*:

“...judgment means for forming a judgment as to which of at least two parties initiated an action for transferring one or more data units through said network...”

...wherein when the judgment is formed that a first party initiated an action for transferring one or more data units through said network and the first magnitude is positive, a cost is beared by the first party.

wherein when the judgment is formed that the first party initiated an action for transferring one or more data units through said network and the first magnitude is negative, a cost is beared by the second party,

wherein when the judgment is formed that a second party initiated an action for transferring one or more data units through said network and the first magnitude is positive, a cost is beared by the second party,

wherein when the judgment is formed that the second party initiated an action for transferring one or more data units through said network and the first magnitude is negative, a cost is beared by the first party...” (emphasis added)

As understood by Applicant, Ferguson relates to a visual editing system for creating commercial online computer services. The system creates online services that consist of a number of sub-services. Each sub-service is a program that provides a particular type of functionality to the online services. Each sub-service has an associated database of information and a collection of scripts that handle events such as input from a user. The system features a fee setting tool that allows the developer to develop a fee structure for an online service.

Applicant respectfully submits that nothing has been found in Ferguson that would teach or disclose the above-identified features of independent claim 1.

Specifically, Applicant respectfully submits that Ferguson fails to disclose or suggest that when the judgment is formed that a first party initiated an action for transferring one or more data units through said network and the first magnitude is positive, a cost is beared by the first party, and when the judgment is formed that the first party initiated an action for transferring one or more data units through said network and the first magnitude is negative, a cost is beared by the second party.

Furthermore, Applicant submits that Ferguson fails to teach or suggest that when the judgment is formed that a second party initiated an action for transferring one or more data units through said network and the first magnitude is positive, a cost is beared by the second party, wherein when the judgment is formed that a second party initiated an action for transferring one or more data units through said network and the first magnitude is negative, a cost is beared by the first party, as recited in claim 1.

For reasons similar to, or somewhat similar to, those described above with regard to independent claim 1, independent claims 2-4, 7 and 8 are also patentable.

### **III. DEPENDENT CLAIMS**

The other claims in this application are each dependent from one of the independent claims discussed above and are therefore believed patentable for at least the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

### **CONCLUSION**

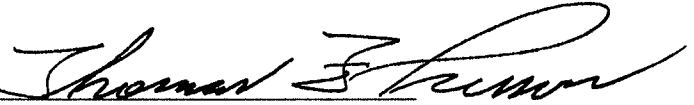
In the event the Examiner disagrees with any of statements appearing above with respect to the disclosure in the cited reference, it is respectfully requested that the Examiner specifically indicate those portions of the reference, providing the basis for a contrary view.

In view of the foregoing amendments and remarks, it is believed that all of the claims in this application are patentable and Applicant respectfully requests early passage to issue of the present application.

Please charge any additional fees that may be needed, and credit any  
overpayment, to our Deposit Account No. 50-0320.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP  
Attorneys for Applicant

By 

Thomas F. Presson  
Reg. No. 41,442  
(212) 588-0800